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Thirteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 191st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 8 November 1994, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.191/Add.1.

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The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

1. The CHAIRMAN said that, as a result of a note verbale dated 21 October 1994 from the Government of Mauritius, consideration of that State party's initial report would be deferred until the Committee's fourteenth session. He suggested that the day set aside for consideration of that report (14 November 1994) should instead be devoted to consideration of communications under article 22 of the Convention and, if possible, to consideration of information received under article 20.

2. At the Committee's ninth session, the Chairman had suggested that the Secretariat should formally invite non-governmental organizations closely concerned with the Committee's work to submit information concerning the application of the Convention in the States parties whose reports were to be considered at the current session. The information received to date had been made available to the members of the Committee or to the respective country rapporteurs.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4)

Second periodic report of Chile (CAT/C/20/Add.3)

3. At the invitation of the Chairman, Mr. Toro and Mr. Lillo (Chile) took places at the Committee table.

4. Mr. TORO (Chile), introducing the report, said that, since Chile's return to democracy in 1990, the Government fully intended to comply with its commitments pursuant to the Universal Declaration of Human Rights. Accordingly, it had decided that a representative of the Ministry of the Interior, who had formerly been an official of the Vicaría de la Solidaridad, should attend the session of the Committee to explain the guidelines and implementation measures relating to new legislation for the protection of detainees, new administrative measures, the application of the Convention in Chile since 1991, and new draft legislation to enhance protection of the rights of detainees and help to prevent the illegal use of force or torture.

5. Since 1990, the rule of law had prevailed in Chile; State bodies, the armed forces, the police, political parties, trade unions and social organizations fulfilled their proper tasks according to the law and the Constitution. The principle of separation of powers was fully respected; in particular, the courts were completely independent. No "states of constitutional exception" had been declared by the Government, and the right of habeas corpus had been fully restored. The situation of constant "states of constitutional exception" which, inter alia, had made the practice of torture possible during the military regime, had given way to one in which the courts determined the legality of detention through the regular exercise of habeas corpus. Examples were to be seen in the Military Appeal Court rulings to correct arbitrary acts committed against detainees, and in the instructions given to police and military court officials to put right procedural errors in that regard.

6. The National Commission for the Truth and Reconciliation had described the period 1973-1990 as one of systematic human rights violations by the military regime; its report stated that torture had been a daily occurrence, practised systematically in secret places of detention by the DINA and other intelligence services. All that had been ended.

7. The Convention had been officially incorporated into Chile's domestic legislation during the previous military regime, but with reservations that had run counter to its object and purpose. On the accession to office of the Government of former President Patricio Aylwin, those reservations had been withdrawn and the Convention was thus fully applicable in Chile. As stated in paragraph 9 of the report, the Convention prevailed in the event of any conflict between it and domestic legislation; pursuant to the constitutional reform of July 1989, the Convention had constitutional status, since, according to article 5 of the Constitution, it was the duty of State organs to respect and promote the current international instruments that had been ratified by Chile.

8. With regard to domestic legislation to define and punish torture, he referred to paragraphs 11-13 of the report. In addition to the legislation mentioned, a bill had been introduced in 1993 to amend the Code of Penal Procedure and the Penal Code with regard to detention, safeguards for detainees and severer punishment for the use of illegal pressure or torture. That legislation, which was currently before Parliament, would also require the Public Prosecutor to institute proceedings against any persons accused of committing such offences. Article 330 of the Code of Military Justice, referred to in paragraph 12, also applied to the Carabineros.

9. With regard to measures adopted since 1991 which affected the Convention's implementation, successive Governments since 1990 had adopted a number of such measures with a view to solving problems inherited from the military regime and ensuring that basic human rights were fully respected. He referred the Committee to paragraphs 15-17 of the report in that regard.

10. Paragraphs 18 and 19 of the report dealt with legal reforms of a procedural nature. As mentioned in paragraph 19, the transitional provisions of Act No. 19,047 provided for the transfer of many cases from the military to the civil courts; and a procedure which allowed prisoners to retract statements made previously before military courts, given the likelihood that they had been obtained under duress, and to make an entirely new deposition before a civil judge. That procedure was fully consonant with the provisions of article 15 of the Convention.

11. With reference to the promulgation of the Prison Regulations (arts. 2 and 10, para. 2 of the Convention), he summarized the information provided in paragraphs 20-24 of the report. He also drew attention to paragraph 25 in connection with article 8, paragraph 1, of the Convention relating to the offence of torture in extradition treaties.

12. Since 1990, a policy had been applied of educational measures and effective disciplinary control for officials in order to ensure that the human rights of detainees were respected and safeguarded. Pursuant to article 33 of the Constitution, the President of the Republic had mandated the Minister of

the Interior, in February 1993, to coordinate action by ministries whose activities had a bearing on the security of the citizen. In addition, the Police Department and the Carabineros had been instructed to give the utmost priority to the investigation of instances of alleged unlawful ill-treatment or torture. Likewise, the Carabineros had also established a machinery for responding directly to organizations making such allegations, a copy of all correspondence being forwarded to the Ministry of the Interior.

13. With regard to educational measures (arts. 10, para. 1, and 11 of the Convention), he summarized the information contained in paragraphs 27-33 of the report; he also referred to paragraph 34 on monitoring and supervision measures, and to paragraphs 35 and 36 relating to disciplinary measures (arts. 12 and 13 of the Convention).

14. Paragraphs 37 and 38 of the report outlined proceedings relating to acts of torture and referred to the Government's wish to contribute to the conduct of prompt and impartial investigations into allegations of such acts, inter alia by exercising its power to request judicial intercession. The Ministry of the Interior, and thus the Government, was kept informed of proceedings relating to alleged ill-treatment or torture through reports prepared by human rights lawyers engaged especially for that purpose. Application of the measures outlined in the report had led to a steady fall since 1990 in the number of allegations before the courts.

15. On the subject of compensation for acts of torture, he referred to paragraphs 39-41 of the report.

16. The Government of President Frei, having assumed office on 11 March 1994, was continuing the human rights policy begun by President Aylwin. It intended to continue improving the Statute of the Rights of Detainees, and was participating actively in drafting legislation to establish new surveillance mechanisms and severer penalties for the offences of ill-treatment and torture. By means of guidelines to police institutions, it had reaffirmed the concept of police activity as a safeguard for the exercise of the basic rights of the individual, including detainees.

17. In view of the importance Chile attached to the full observance and exercise of universal instruments to promote and protect human rights, the Government was considering the possibility of taking steps to withdraw the reservation relating to the application of the Inter-American Convention in its relations with the countries of the Americas.

18. It also intended to carry out a major overhaul of the system of criminal procedure, one feature of which would be the establishment of the Office of Procurator of First Instance, obliged at all times to give legal assistance to victims of ill-treatment or torture.

19. The CHAIRMAN thanked the representative of Chile for his statement and the introduction of Chile's second periodic report.

20. Mr. GIL LAVEDRA (Country Rapporteur) thanked the delegation of Chile for its attendance and the presentation of the report, which had clarified many of the points raised earlier by the Committee. He and his colleagues appreciated

the difficulties encountered in Chile's transition from military dictatorship to democratic government, especially the problems stemming from the continued presence of some major figures of the former regime. Nevertheless, the Committee still lacked a number of details essential to a clear analysis of the changes taking place. For example, since the submission of the 1989 report, a number of further legislative reforms had been introduced which, as the Chilean authorities themselves recognized, invalidated much of that report's contents; but the Committee still lacked the texts of those reforms, and did not know how much of the legislation reported earlier, particularly with regard to the Penal Code, remained valid.

21. In an attempt to clarify a number of points concerning the status of the Convention with regard to domestic law, he drew attention to the inconsistency between the statement in paragraph 9 of the report that the Convention had constitutional status under article 5 of the Constitution and the reply given by the Chilean delegation to the Committee on 23 November 1989 that the Convention had the force of law. Article 5 of the Constitution referred not to the Convention as such but to international treaties in general. He wondered, therefore, what the situation was in practice vis-à-vis legal doctrine, jurisprudence and the law courts.

22. Articles 334 and 335 of the Code of Military Justice, requiring total obedience by the military, provided justification for acts of torture carried out on the orders of a superior officer even when such orders were illegal. Those articles were thus a clear violation of article 2, paragraph 3 of the Convention and, if the Convention had proper constitutional status, were also repugnant to the Constitution. Although the military might not have appreciated the legal difficulties involved in incorporating the Convention into domestic law, the situation needed to be made absolutely clear.

23. The same conflict arose in relation to article 3 of the Convention: he wished to know whether that article prevailed in extradition cases where torture might be involved or whether Chile's legislation still needed to be brought into line with the article.

24. In 1991, the Chilean delegation had stated that the death penalty remained in force for certain common law offences despite the Government's intention to abolish capital punishment. It would be useful to learn whether the death penalty had been abolished and, if not, whether any changes had been made.

25. The Chilean delegation had also stated, on 24 April 1991, that plans were afoot to make changes in the jurisdiction of the military courts. Information would be welcome as to whether such changes had been made or whether articles 3 and 5 of the Code of Military Justice still prevailed in cases of offences against common law committed during service. Indeed, it would be useful to know what precisely was the distinction between the competence of the military courts and the civil courts with regard to common law offences.

26. The Convention required the States parties to impose a penalty for torture commensurate with the crime. The Committee had thus been looking forward to the proposed changes in the scale of sentences, in view of its concern that Chile's legislation was inappropriate in that regard, that its

definition of torture was not in line with the definition in article 1 of the Convention, and that the said definition related solely to torture committed by officials. News of any changes in that regard would thus be welcome.

27. In 1991, the Committee had requested further information about the ombudsman in Chile, his precise role and to what extent it encompassed the protection of Chilean citizens.

28. Since the Committee sought to establish cooperation with the States parties, it wondered whether the Chilean Government had experienced any specific difficulties in implementing the Convention, in view of the enormous number of cases which continued to be reported by the NGOs or officials such as the Special Rapporteur on the question of torture, many involving complaints against the Carabineros and the security police. It was unclear whether the Carabineros were responsible to the Ministry of the Interior and how that Ministry achieved coordination. Furthermore, written and oral reports by organizations such as CODEPU (Comisión de Defensa de los Derechos del Pueblo) gave the impression that the penalties imposed were not commensurate with the number or severity of cases, indicating that there was a breakdown somewhere in the system. Perhaps the Chilean delegation could inform him where things were going wrong and what could be done to put them right.

29. The Special Rapporteur on the question of torture referred, in his latest report (E/CN.4/1994/31), to cases on which information had been requested from the Chilean Government and to which the Government had replied that, in many of them, medical reports had revealed that no torture had taken place or that there were no visible signs of injuries. He wondered whether that implied that the author of the report was mistaken, that the medical reports were incorrect or that the examinations had been carried out by unqualified persons. Nevertheless, in many cases the medical reports indicated the presence of injuries consistent with the allegations, some of which dated from 1992. He wished to know what penalties had been imposed in those cases and whether the State party could demonstrate that it had fulfilled the requirements of the Convention by carrying out a prompt and impartial investigation to punish the perpetrators. It was not clear that the reforms previously mentioned were sufficient and, if they were, the Chilean delegation should specify where the difficulties lay.

30. Chile's Code of Criminal Procedure was outdated and contained a number of alarming provisions: apart from its inquisitorial structure, which permitted judges to carry out investigations as well as pass sentence, article 260 allowed the police to detain, without a court order, anyone who refused to disclose his or her identity, even when there were no grounds for supposing that the person had any criminal intent. Police Officers could thus detain anyone they liked, when they liked, on suspicion of being in breach of the anti-social laws. He would like to know whether that provision was still in force.

31. Furthermore, it was not at all clear why the police could detain a person at its discretion for 48 hours before bringing him before a judge, when a person caught <u>in flagrante delicto</u> had to appear before a judge within 24 hours of his or her arrest. A provision introduced by the

military Government in article 158 prevented judges from inspecting police or military premises by forbidding them right of entry. The Committee would like to know whether that provision also was still in force.

32. The Committee also wished to know whether Chile had any anti-terrorist legislation.

33. Many of the questions he had raised might well be covered by the wide-ranging reforms that had been mentioned. Perhaps the Committee could be provided with details of those reforms as well as answers to its questions, so that the two parties could together see how improvements might best be introduced.

34. Mr. LORENZO (Country Rapporteur), having thanked the Government and delegation of Chile for the report and the oral information, said that the fact that the delegation included an experienced defender of human rights was proof of the Government's intention to improve the human rights situation in Chile, and its confidence that the meeting with the Committee would not be a confrontation but a cooperative effort to achieve a common purpose.

35. Chile was to be congratulated on having withdrawn its reservations to the object and purpose of the Convention, as stated in paragraph 8 of the report, reservations which the Committee and the international community had rejected as being contrary to the Law of Treaties and, in particular, to article 19 of the Vienna Convention. Chile was also to be congratulated on withdrawing its objections to the Committee's competence under article 20 to examine cases of alleged systematic torture. It would be an important step forward, therefore, if Chile could also acknowledge the Committee's competence under articles 21 and 22 to deal with complaints by individuals.

36. In that connection, he endorsed Mr. Gil Lavedra's concerns about the State's inability to prevent the many acts of torture which were still committed by the military or security services either as a matter of course or through inertia resulting from 17 years of military rule. The Committee could help the Government to improve the situation through the article 22 procedure without the need for further intervention by Parliament, as authority had already been given to ratify the Convention. The necessary reforms could be made quickly and easily and would help everyone involved to cooperate in eradicating torture in Chile.

37. Chile's proposal to lift its reservation in respect of the implementation of the Inter-American Convention was welcome. Although all human rights treaties were designed to establish minimum human rights standards in the signatory countries, there was nothing to prevent States from granting its citizens rights over and above those provided for in the treaties. There was therefore no contradiction between the Inter-American Convention and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations if the former provided better guarantees. However, as the definitions in the Inter-American Convention were less strict than those of the United Nations Convention, it would be a violation of the latter to give precedence to the former.

38. With reference to paragraph 10 of the report, he endorsed Mr. Gil Lavedra's concern as to whether the Convention prevailed over domestic legislation or not. It was clear, however, that the lifting of the reservation on unquestioning obedience demonstrated Chile's intentions to eliminate such provisions from its legislation. He emphasized the importance of Mr. Gil Lavedra's question as to how a subordinate was supposed to know whether or not he was obliged to obey an order, as long as article 7 of the Military Disciplinary Code calling for unquestioning obedience remained in force. Special efforts to implement article 10 of the Convention were obviously needed.

39. The revised scale of penalties for acts of torture was most welcome. Although it had no obligation to do so, Chile might usefully consider making torture a crime, so as to cover all the situations in article 1 of the Convention and include private individuals as well as officials. It would also facilitate the human rights education process.

40. Turning to paragraph 18 of the report, he requested clarification as to the periods of time within which a person under arrest had to be brought before a judge, allowed to contact a lawyer of his own choosing, allowed to undergo a medical examination and allowed to see members of his family or friends. The reply should refer to all types of cases, including arrest on suspicion and arrest in flagrante delicto. Any State that genuinely wished to eliminate torture should enact strict legislation governing in particular the first few hours of detention and providing specific guarantees during those first hours.

41. In connection with paragraph 39 of the report, he recalled that, when it had considered Chile's report in April 1991, the Committee had found the system of compensation for victims of human rights violations and their families to be unsatisfactory. He would like to know, therefore, how the current system of compensation worked and whether the State accepted civil liability for acts of torture committed by its agents despite the vicissitudes of court cases. No good system of compensation could be linked to court procedure, and it was important that the State should accept civil liability for any offences committed.

42. The Committee also sought clarification as to the competence of military courts, the types of cases they could judge and in what circumstances they could judge civilians. It wished to know, in particular, whether acts of torture perpetrated by the military against civilians were judged in military or civil courts.

43. Clarification was also sought on cases referred to in reports such as the report by Amnesty International entitled "Torture and Ill-treatment Continue", March 1993 (AMN22/01/93/S, "Torture in Chile", Vol. II, by the International Association against Torture and the 1990-94 Report on Human Rights by CODEPU). Information had also been submitted by other international associations and details of the cases referred to therein, possibly supplemented by a written report, would be welcome.

44. Lastly he emphasized the Committee's interest in receiving an answer to Mr. Gil Lavedra's question as to whether the Carabineros and security police were civilian or military bodies, and whether they were responsible to the Ministry of the Interior or Ministry of Defence.

45. Mr. SORENSEN joined in the praise for the oral introduction by the representative of Chile, and welcomed the good will towards the Committee shown not only by the delegation, but by the Government of Chile itself.

46. Paragraphs 20 to 25 of the report dealt with the regulations governing prisons, which had been particularly important under the former regime. With the return of the country to democracy, however, it was equally important that attention be paid to regulating the conduct of the police, since the Committee's experience was that, in a democratic State, it was nearly always in police stations that ill-treatment of detainees took place. He thus asked whether the Chilean Penal Code already guaranteed, or was it intended to make it guarantee, the four basic rights of a person taken into police custody, namely, access to a lawyer, notification of next-of-kin, access to a doctor of that person's choice, and information as to his rights, both orally and in writing.

47. With regard to article 10 of the Convention, he was pleased to see how much had been done in Chile to educate the police and law-enforcement personnel, but pointed out that States parties also had a duty to educate doctors. It was a well-known fact that doctors were necessary for torture, and that, in Chile they had participated in it to a considerable extent. He would like to know, therefore, how many doctors guilty of torture under the military regime had been prosecuted in Chile, and what decisions the courts had pronounced in those cases.

48. In some countries, doctors who had participated in torture were still working in hospitals, which meant that victims were often reluctant to go to hospitals for treatment. He wondered whether the Government of Chile was aware of the existence of that problem. Lastly, he inquired whether education about torture was given in the schools.

49. Concerning article 14 of the Convention, the Committee conceived of compensation as being of three kinds, moral, monetary and medical. While the work of the Programme of Compensation and Full Health Care for Victims of Human Rights Violations (PRAIS) referred to in paragraph 39 of the report was no doubt valuable, it sometimes happened that people severely tortured by one regime were reluctant to seek compensation from the next. For that reason, a number of private organizations had been set up to assist torture victims, notably the Rehabilitation and Research Centre for Torture Victims in Copenhagen (CINTRAS), which had been founded in 1984 and was supported by the Government of Denmark. The President of Chile, in a statement made at Copenhagen on 28 May 1994, had promised to continue to support CINTRAS, but no such support had, in fact, been forthcoming. He would appreciate the delegation's comments on that matter.

50. Mr. EL IBRASHI, having also thanked the delegation and Government of Chile for their efforts to cooperate with the Committee in eradicating torture, said he fully endorsed the questions raised by previous speakers, and hoped they would receive adequate replies.

51. It was not clear to him whether the definition of torture in Chilean legislation was fully in keeping with that given in article 1 of the Convention. It would have been preferable if torture could have been made a separate crime under Chilean law, as envisaged by the Convention. He joined earlier speakers in thanking the Government for taking the significant step of withdrawing its reservations to article 2, paragraph 3, and article 3, reservations which had rendered Chile's accession to the Convention as a whole virtually irrelevant.

52. With respect to the application of the Convention in Chile's internal legal order, paragraph 9 of the report stated that it was the duty of State organs to "respect and promote" human rights guaranteed by the Constitution and by international treaties ratified by Chile. He would like to know how human rights standards were implemented in practice, and whether the articles of the Convention were automatically applied by the courts. He had understood from Chile's initial report (CAT/C/7/Add.2) that, under Chilean military law, the principle of blind obedience applied, which would appear to be in contradiction with article 2, paragraph 3, of the Convention. He asked whether that principle still applied and whether non-military courts were competent to hear cases involving a contradiction between specific laws, notably military laws, and the Constitution, and if so, what final judgement had been given in any of the cases heard.

53. Concerning article 14, it was evident from paragraphs 39, 40 and 41 of the report that the Government was making efforts to implement what the Committee considered to be one of the core articles of the Convention. However, there were still a number of questions that needed to be answered. It was unclear whether victims of torture were entitled to bring criminal prosecutions on their own initiative against those responsible. Chile's initial report (C80/C/7/Add.2, para. 162) stated that the cost of the treatment of the victim would be defrayed, and maintenance provided, for as long as the inability to work caused by the injury continued and that the obligation to provide maintenance would be "commensurate with the circumstances of the victim". The concept of relating compensation to the financial situation of a victim or to that of his family seemed to him a strange one. It appeared that, if a victim was shown to have adequate means, he was then held fully responsible for his own rehabilitation and maintenance, or, possibly, that State and victim shared the responsibility.

54. Paragraph 41 of the report stated that no statistics had been compiled concerning cases in which health care had been provided to victims of ill-treatment occurring after 1990. He would be grateful if the delegation could provide such statistics.

55. As had been pointed out by the Country Rapporteur, a number of allegations concerning torture in Chile had been brought to the Committee's attention by such bodies as Amnesty International and Human Rights Watch, and not all of those allegations had yet been answered. For example, it was

stated in the Report of the Special Rapporteur on the question of torture (E/CN.4/1994/31, para. 142) that the Government had replied to him that three persons arrested in 1991 were being tried under the Arms Control Law: it would be useful to know how many cases had been brought under that Law, and what had been the outcome. In cases of ill-treatment in which no formal complaint had been lodged, he asked whether the Government was planning to take any action, or whether the cases would simply be dropped.

56. Mrs. ILIOPOULOS-STRANGAS, having thanked the Chilean representative for his efforts to explain the situation concerning torture in his country, and congratulated the Government on the measures it had already taken, said that, as she knew from her own country's experience, the transition from dictatorship to democracy was often a delicate and difficult process; it was not possible, for example, to dismiss an entire police force. However, a regime in the process of democratization should at least ensure that changes in legislation were actually enforced in practice.

57. Speaking as a professor of constitutional law, she would like to know more about the status of the Convention in Chile's legal system. With reference to paragraph 9 of the report, she found it questionable that article 5 of Chile's Constitution, under which State organs had a duty to respect and to promote rights guaranteed by the Constitution and by international treaties ratified by Chile, was sufficient to confer legal validity on the provisions of the Convention. That article said nothing about how the problem of a possible conflict between the Constitution and domestic law was to be resolved.

58. With reference to paragraph 10 of the report, she could not agree that under Chile's internal legal order articles of the Convention became self-executing, since if that were so, all conventions would be self-executing, and there would be no need for any domestic legislation. The Convention clearly stated that the State party had an obligation to take certain internal measures to implement its provisions. Furthermore, laws had an important educational role to play in combating torture; inhabitants of remote villages in Chile were unlikely to know much about the Convention or its provisions. Such considerations might, perhaps, be taken into account in Chile's reform of the Code of Penal Procedure.

59. Should would like to know whether the compensation awarded to victims of torture under Chilean law was in conformity with article 14 of the Convention and whether there were legal mechanisms in place to provide the necessary guarantees; whether the State, or its agents, were deemed liable, and whether what might be described as "objective liability" existed; to what extent Chilean jurisprudence recognized the right of victims to compensation; and, lastly, whether there was any Chilean jurisprudence relating to two problems, the status of the Convention in Chile's legal system, and the self-executing nature of article 5 of the Convention.

60. Mr. BURNS, having commended the extensive introduction to the report by the representative of Chile and associated himself with the comments made by Mr. Gil Lavedra in particular, asked whether the office of ombudsman still existed in Chilean law, and if so, what the extent of its jurisdiction was and by whom the ombudsman was appointed and dismissed. He also wished to know

whether any restructuring of the army, analogous to the restructuring carried out in the police force had taken place, and whether its commanding officers were the same as those who had been in control prior to the return of democracy.

61. He was concerned at the statement in paragraph 37 of the report that, although some 50 complaints of alleged ill-treatment had been lodged between 1990 and 1993, most of the investigations into those complaints were still pending. It was vital that the Committee should know the results of such investigations as had actually taken place, whether any police officers had been convicted by the courts, and if so, how many. If any investigations of complaints dating from 1990 were still pending, the process would seem inordinately long.

62. The material submitted by Amnesty International differed from the report of the Special Rapporteur on the question of torture in that it distinguished between political and non-political cases of torture. The distinction was a significant one, since it showed that non-political cases involved the same kind of ill-treatment as political ones (beatings, electrical shocks, submersion in water) and that the offenders were usually the police rather than the army. The unfortunate impression was given that, even if the Government's intent was to end the system of ill-treatment in police stations, it had not yet been able to break the systems that had existed under the previous regime. Political will on the part of the Government was important in that connection.

63. He asked whether the delegation of Chile could provide information on any cases of torture that had been resolved and what political steps, apart from the education of police officers, had been taken by the Government to ensure that the police command structure understood that ill-treatment of prisoners was no longer tolerable as a method of interrogation.

64. Mr. REGMI said he noted from paragraph 37 of the report that two types of court, civil and military, were competent to investigate complaints of ill-treatment. It was unclear why, in a country committed to democracy, there was still a need for military courts since, once there had been separation of powers the civil courts should be competent in such matters. He asked how many days a person in detention could be kept incommunicado under Chilean law.

65. The CHAIRMAN said that one of the principles on which the Committee based its work was sine lege nulla poena i.e. that a crime could not exist unless the offence was defined by law. It was essential, therefore, that the provisions of the Convention be incorporated into a State's internal legislation if torture, as defined in article 1 of the Convention, was to be effectively punished.

66. He suggested that the afternoon meeting should be postponed until 3.30 p.m. to allow the Chilean delegation time to prepare replies to the many questions that had been asked.

67. It was so decided.

The public meeting rose at 12.15 p.m.